

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2011-336-C - ORDER NO. 2011-950  
DECEMBER 15, 2011

IN RE: Application of Common Point, LLC for a	)	ORDER GRANTING
Certificate of Public Convenience and	)	CERTIFICATE AND
Necessity to Provide Local Exchange and	)	APPROVING FLEXIBLE
Interexchange Telecommunications Services	)	REGULATION AND
within the State of South Carolina and for	)	ALTERNATIVE
Flexible Regulation and for Alternative	)	REGULATION
Regulation	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Common Point, LLC (“Common Point” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold and facilities-based local exchange (including exchange access) and interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2010) and the rules and regulations of the Commission. By its Application, Common Point also requests flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, alternative regulation of its business interexchange services consistent with Commission Orders, and waiver of certain Commission regulations.

The Commission’s Clerk’s Office instructed Common Point to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by

the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Common Point and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Common Point complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (“SCTC”). Subsequent to the intervention, Common Point and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

Subsequently, Common Point and ORS filed a Settlement Agreement, attached hereto as Order Exhibit 2. A hearing was convened on November 14, 2011, at 10:00 am in the offices of the Commission in Columbia, South Carolina, before B. Randall Dong, Hearing Examiner. Common Point was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (“ORS”) was represented by Nanette Edwards, Esquire. The South Carolina Telephone Coalition did not appear at the hearing.

Joseph O’Hara, Chief Financial Officer for the Company, testified in support of the Company’s Application. The record reveals that Common Point is a Limited Liability Company (“LLC”) organized under the laws of the State of Illinois and that it is registered to transact business in South Carolina as a foreign LLC. According to Mr. O’Hara, the Company seeks authority as a facilities-based provider and reseller of local services (including exchange access) and interexchange services. Mr. O’Hara explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. Common Point will initially provide switched tandem access services to other carriers delivering call traffic into and out of

local exchanges through neutral, common or tandem switches. Mr. O'Hara also discussed Common Point's technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. O'Hara offered that Common Point possesses sufficient financial resources to support its operations in South Carolina.

With regard to management and technical capabilities, the Company's Application and Mr. O'Hara's testimony both evidence that Common Point's management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. O'Hara also testified that Common Point will operate in accordance with Commission rules, regulations, guidelines, and Commission orders. Mr. O'Hara offered that approval of Common Point's Application would serve the public interest.

Mr. O'Hara, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in Illinois. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts ("USOA"). Common Point maintains its books in accordance with Generally Accepted Accounting Principles ("GAAP").

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Common Point is organized as an LLC under the laws of the State of Illinois and is authorized to do business as an LLC in South Carolina by the Secretary of State.

2. Common Point desires to operate as a provider of facilities-based and resold local exchange (including exchange access) and interexchange services in South Carolina.

3. We find that Common Point possesses the managerial experience and capability to operate as a provider, on a facilities-basis and through resale, of local exchange services and interexchange services in South Carolina.

4. We find, based on the financial statements submitted by the Company and the testimony at the hearing, that Common Point possesses sufficient financial resources to provide the services as described in its Application and testimony.

5. We find that the issuance of a Certificate of Public Convenience and Necessity to Common Point to operate on a facilities basis and as a reseller of local exchange telecommunications and interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

6. Common Point requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Common Point's requested waiver reasonable and understands the potential difficulty presented to Common Point should the waiver not be granted. Further, we find a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public

interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable.

7. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. § 58-9-280 (B) (1) (Supp. 2010).

8. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280 (B) (3) (Supp. 2010).

9. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280 (B) (4) (Supp. 2010).

10. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280 (B) (2) (Supp. 2010).

11. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 2010).

12. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition ("SCTC"), the SCTC withdrew its opposition to the Application.

**CONCLUSIONS OF LAW**

1. The Commission concludes that Common Point possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Common Point will participate in the support of universally available telephone service at affordable rates to the extent that Common Point may be required to do so by the Commission.

3. The Commission concludes that Common Point will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Common Point's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Common Point will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange (including exchange access) and interexchange telecommunications services as requested by Common Point and as set forth in its Application and Mr. O'Hara's testimony is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Common Point to provide facilities-based and resold

intrastate local exchange telecommunications services (including exchange access) and intrastate interexchange telecommunications services.

8. The Commission adopts a rate design for Common Point for its residential interexchange services, if any, which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. Common Point shall not adjust its residential interexchange rates for end-users, if any, below the approved maximum level without notice to the Commission and to the public. Common Point shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 2010).

10. The Commission concludes that Common Point's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing.

If an investigation of a particular tariff filing is instituted within seven (7) days of the filing date, the tariff filing will then be suspended until further Order of the



Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within seven (7) days of the filing date.

11. The Commission concludes the Company's retail local exchange telecommunications services (if any) shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing. An investigation of the tariff filing may be instituted within 30 days of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within thirty days of the filing date. Further, any such tariff filings will be subject to the same monitoring process as similarly situated local exchange carriers.

12. We conclude that Common Point's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted. The waiver is not contrary to the public interest. We also grant exemption from the policies requiring the use of USOA.

13. The Stipulation and Settlement Agreement between the various parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Common Point to provide intrastate interexchange services as a facilities-based carrier and through the resale of services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide facilities-based and resold local exchange telecommunications services within the State of South Carolina. Prior to offering retail local exchange services, Common Point shall comply with or seek a waiver of S.C. Code Ann. Regs. 103-607 (Supp. 2010).

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so, Common Point shall file its revised tariff utilizing the Commission's e-filing system for tariffs within 30 days of the issuance of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Common Point-ORS Settlement Agreement.

4. The Company's service is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Common Point shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Common Point changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Common Point shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (47 C.F.R. § 51.209). Specifically, Common Point shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Common Point shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Common Point shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is

“Telecommunications Company Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled “Gross Receipts Form.”

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1<sup>st</sup>** with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Common Point shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at

[www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Common Point requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2010), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The Commission finds Common Point's requested waiver reasonable and understands the potential difficulty presented to Common Point should the waiver not be granted. The Commission therefore grants the requested waiver. However, Common Point shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Common Point shall promptly notify the Commission and ORS if the location of its books and records changes.

12. Common Point also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts. The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Common Point maintains its book of accounts in accordance with Generally Accepted Accounting Principles. GAAP is used extensively by interexchange carriers and other competitive telecommunications carriers. Accordingly, Common Point

requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

13. In the event that Common Point offers or provides any service that would implicate Title 23, Chapter 47 of the South Carolina Code Annotated, Common Point is required to comply with that Title and Chapter, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, in the event Common Point offers or provides the appropriate services, the Commission hereby instructs Common Point to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memorandum from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memorandum provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, Common Point shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

14. The Stipulation and Settlement Agreement between the various parties are hereby approved and are made a part of this Order.

15. This Order shall remain in full force and effect until further Order of the Commission.

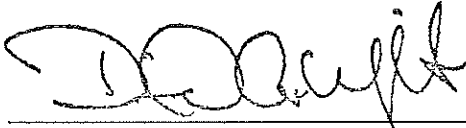
BY ORDER OF THE COMMISSION:



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John E. Howard, Chairman

ATTEST:



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David A. Wright, Vice Chairman

(SEAL)

STATE OF SOUTH CAROLINA  
*State Budget and Control Board*  
OFFICE OF RESEARCH & STATISTICS

MARK SANFORD, CHAIRMAN  
GOVERNOR

GRADY L. PATTERSON, JR.  
STATE TREASURER

RICHARD ECKSTROM  
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.  
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. FUSCO  
EXECUTIVE DIRECTOR

REMBERT C. DENNIS BUILDING  
1000 ASSEMBLY STREET, SUITE 425  
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers  
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at [www.ors.state.sc.us/digital/E-911.ASP](http://www.ors.state.sc.us/digital/E-911.ASP). If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2011-336-C

Re: Application of Common Point, LLC for a )  
Certificate of Public Convenience and )  
Necessity to Provide Local Exchange and )  
Interexchange Telecommunications Services )  
in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Common Point, LLC ("Common Point") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Common Point's Application. SCTC and Common Point stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Common Point, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Common Point stipulates and agrees that any Certificate which may be granted will authorize Common Point to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Common Point stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Common Point stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Common Point provides such rural incumbent LEC and the Commission with written

notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Common Point acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Common Point stipulates and agrees that, if Common Point gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Common Point will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Common Point acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Common Point, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Common Point agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

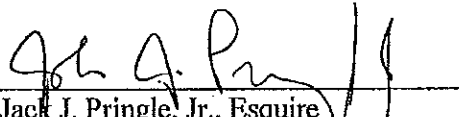
9. Notwithstanding any provision contained herein, the terms, conditions, and limitations of the Stipulation apply only in those instances where a rural telephone company's federal rural exemption under 47 U.S.C. § 251(f)(1) is implicated.

10. Common Point hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

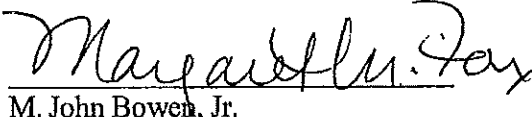
AGREED AND STIPULATED to this 14th day of October,  
2011.

Common Point, LLC

South Carolina Telephone Coalition:

  
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Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2011-336-C**

IN RE:	Application of Common Point, LLC for a Certificate of Public Convenience and Necessity to Provide Local Exchange and Interexchange Telecommunications Services within the State of South Carolina and for Alternative and Flexible Regulation	) ) ) ) ) ) )	<b>SETTLEMENT AGREEMENT</b>
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This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Common Point, LLC ("Common Point" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, on August 17, 2011, Common Point filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide facilities based and resold local exchange (including exchange access) and interexchange services; (ii) flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) that interexchange service offerings be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, and as modified by Public Service Commission of South Carolina ("Commission") Order No. 2001-997 in Docket No. 2000-407-C; (iv) waiver of Regulation 103-610 regarding location of records; and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts ("USOA");

WHEREAS, on August 24 and September 30, 2011, counsel for ORS entered a Notice of Appearance in this matter;

WHEREAS on August 25, 2011, the Commission issued a Notice of Filing and Hearing and established a return date of September 27, 2011, for the filing of letters of protest or petitions to intervene and established a hearing date of November 14, 2011 for the Application to be heard before a hearing examiner;

WHEREAS, on September 15, 2011, the Commission issued its Order No. 2011-616 by which the Commission appointed B. Randall Dong, Esquire as the Hearing Examiner in this matter;

WHEREAS, on September 27, 2011, South Carolina Telephone Coalition ("SCTC") filed a petition to intervene and later filed a stipulation on October 14, 2011;

WHEREAS, on October 3, 2011, the Company filed the direct testimony of Joseph O'Hara with the Commission;

WHEREAS, the purpose of this proceeding is to review the Application filed by the Company and its requests: (i) for a Certificate of Public Convenience and Necessity to provide facilities based and resold local exchange (including exchange access) and interexchange services within the State of South Carolina; (ii) for flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) for waiver of Regulation 103-610 regarding location of records, and (iv) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical and managerial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the financial statements of Common Point filed as Exhibit 3 to the Application;

WHEREAS, ORS calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the pre-filed testimony of Joseph O'Hara;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company requests authority to offer facilities based and resold local services (including exchange access) and long distance services but has no present intention of offering retail residential local exchange services; (b) the Company's officers appear to possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided and the analysis performed, the Company appears to have access to sufficient financial resources necessary to provide the services proposed in its Application; (d) the Company's proposed tariffs set forth in Exhibit 4 to its Application with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (e) the services provided by the Company will meet the service standards required by the Commission; (f) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; (g) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; and (h) the provision of local services by the Company will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket and

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree that Common Point's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Joseph O'Hara without cross-examination by ORS;

3) The Company submitted financial data, which was provided as Exhibit 3 to its Application, and which financial data is incorporated by reference;

4) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide facilities based and resold local exchange (including exchange access) services and interexchange services subject to the terms and conditions contained herein within the state of South Carolina;

5) Regulation 103-612.2.3 provides that the Commission and ORS shall maintain updated maps showing Commission approved areas and/or exchange service area(s). The Company has not provided ORS an operating area map;

6) To the extent the Company offers retail local exchange service in the future, the Company agrees it is responsible for having the name, address, and telephone numbers of all of its customers listed in a telephone directory that is published at regular intervals, except those unlisted at customer's request;



7) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2010) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in Illinois, and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2010) or § 58-9-1070 (Supp. 2010). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

8) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"). The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2010) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require

every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses associated with its South Carolina operations for compliance with programs such as but not limited to the Universal Service Fund ("USF"), the Interim LEC Fund, dual party relay service fund, and gross receipts. The Company agrees to complete the reporting forms for such programs as but not limited to USF, dual party relay service fund, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

9) ORS does not oppose the Company's requests: (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days; and (b) for alternative regulation of its interexchange service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) removal of the maximum rate tariff requirements for the Company's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (ii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the

investigation or until further order of the Commission; and (iii) grant Common Point the same treatment as all other carriers operating under alternative regulation in connection with any future relaxation of reporting requirements;

10) The Company agrees to resell the services only of those local exchange providers authorized to do business in South Carolina by the Commission; and if the Company provides local services in the future, the Company shall utilize only those carriers authorized to do business in South Carolina by the Commission. The Company agrees to notify ORS and the Commission, in writing, if Common Point changes its underlying carriers;

11) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Common Point. The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements;

12) The Company agrees to maintain its books and records associated with its South Carolina operations in a manner that would permit ORS to examine any of Common Point's reports filed with the Commission and provided to ORS;

13) The Company agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order;

14) In the event that the Company offers prepaid calling card or prepaid long distance services in the future, Common Point agrees that it shall obtain Commission approval and post a surety bond in the amount of \$5,000 as required by the Commission;

15) In the event that the Company offers Residential retail local exchange services in the future, the Company will comply with South Carolina Regulation 103-607 in that it will obtain a bond, irrevocable letter of credit, or certificate of deposit or obtain a waiver of South Carolina Regulation 103-607;

16) The Company agrees to comply with South Carolina Code Ann. § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, Common Point agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

17) To the extent necessary, the Company agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

18) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," also known as 911 services." At the time the Company offers or provides any service that would implicate Title 23, Chapter 47, the Company agrees to contact the appropriate authorities regarding 911 services in the counties and cities where it will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding the Company's operations;

19) The Company agrees to comply with all orders, directives, guidelines, rules and regulations of the Commission unless the Commission has expressly waived such requirement, rule or regulation;

20) The Company agrees to file a final revised tariff with both the ORS and the Commission within thirty days of the Commission Order granting certification, and the revised tariff shall reflect and be in accordance with ORS's recommendations as set forth in Attachment 1 to this Settlement Agreement. Further, the Company agrees to file and maintain its tariff with the Commission electronic tariff filing system;

21) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

22) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the

Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein;

23) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party;

24) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation;

25) This Settlement Agreement shall be interpreted according to South Carolina law;

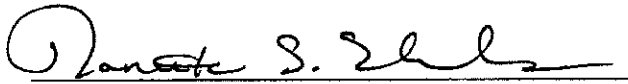
26) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement

and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

[SIGNATURES ON FOLLOWING PAGES]

WE AGREE:

**Representing the South Carolina Office of Regulatory Staff**



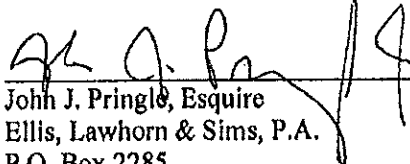
Nanette S. Edwards, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201  
Telephone: (803) 737-0575  
Fax: (803) 737-0895  
Email: nsedwar@regstaff.sc.gov

11/8/11  
Date



WE AGREE:

Representing Common Point, LLC

  
\_\_\_\_\_  
John J. Pringle, Esquire  
Ellis, Lawhorn & Sims, P.A.  
P.O. Box 2285  
Columbia, SC 29202  
Telephone: (803) 343-1270  
Fax: (803) 799-8479  
Email: jpringle@ellislawhorne.com

11/8/2011

\_\_\_\_\_  
Date

C. DUKES SCOTT  
EXECUTIVE DIRECTOR

1431 Main Street, Suite 300  
Columbia, SC 29201



Phone: (803) 737-0360  
Fax: (803) 737-0301

DANE ARNETT  
CHIEF OF STAFF

August 23, 2011

John J. Pringle  
Ellis, Lawhorne & Sims, P.A.  
Post Office Box 2285  
Columbia, SC 29202-2285

RE: Application of Common Point, LLC for a Certificate of Public  
Convenience and Necessity to Provide Local Exchange and  
Interexchange Services (Docket No. 2011-336-C)

Dear Mr. Pringle,

The South Carolina Office of Regulatory Staff has reviewed the Common Point, LLC  
Proposed Tariff No. 1 that was filed with the South Carolina Public Service Commission  
on August 17, 2011.

Included in the attachment are recommendations for the tariff that will enable it to  
conform to the typical South Carolina Telecommunications Tariff. Also included are  
recommendations for additions or deletions in your tariff that will aid in the timely  
approval of the tariff.

Please do not hesitate to respond via e-mail or phone. And, as always, if you do have any  
questions, please contact me.

Sincerely,

Tom Allen  
Tariff Administrator  
South Carolina Office of Regulatory Staff  
803-737-5229  
[tallen@regstaff.sc.gov](mailto:tallen@regstaff.sc.gov)

**Recommendations for Common Point LLC Tariff No. 1**

**Original Sheet No. 6 1.2**—The Company should add the following language to the end of the paragraph—“The Company will notify the Commission of these promotional offerings in accordance with Commission Regulations.”

**Original Sheet No. 15 2.3.3**—The Company should add the following language to the end of the paragraph—“The return check charge will be consistent with SC Code Ann. § 34-11-70.”

**Original Sheet No. 18 2.6**—The Company should update the ORS address as follows:

SC Office of Regulatory Staff  
Consumer Services Division  
1401 Main Street, Suite 900  
Columbia, SC 29201  
(803) 737-5230  
1-800-922-1531 (toll free)

**Original Sheet No. 42 5.1**-- If the Company does provide services other than ICB, the Company will file tariff revisions to reflect the current rates. In addition, if the Company will provide services to residential customers, the Company will file both current and maximum rates for the services provided.

**Original Sheet No. 43 5.2.1**-- If the Company does provide services other than ICB, the Company will file tariff revisions to reflect the current rates. In addition, if the Company will provide services to residential customers, the Company will file both current and maximum rates for the services provided.

**Original Sheet No. 44 5.2.2 and 5.2.3**-- If the Company does provide services other than ICB, the Company will file tariff revisions to reflect the current rates. In addition, if the Company will provide services to residential customers, the Company will file both current and maximum rates for the services provided.

**Original Sheet No. 45 5.2.3**-- If the Company does provide services other than ICB, the Company will file tariff revisions to reflect the current rates. In addition, if the Company will provide services to residential customers, the Company will file both current and maximum rates for the services provided.

**Original Sheet No. 46 5.2.4 and 5.2.5**-- If the Company does provide services other than ICB, the Company will file tariff revisions to reflect the current rates. In

**addition, if the Company will provide services to residential customers, the Company will file both current and maximum rates for the services provided.**

**Additional Recommendations for the Local Exchange Tariff**

- 1) If the Company charges any installation, connection, maintenance, or termination charges, etc. (in addition to the services listed in the tariff), these additional charges and the descriptions of the charges should be listed in the tariff with their current and maximum rates.**
- 2) The Company should also provide tariffs and tariff revisions to the South Carolina Public Service Commission as well as the South Carolina Office of Regulatory Staff (26 S.C. Code Regs. 103-629).**
- 3) The Company will be required to file a bond in order for the Company to comply with 26 S.C. Code Regs. 103-607.**
- 4) If the Company's Services involve Prepaid Calling Cards, the Company will be required to post a \$5, 000 Surety Bond with the Public Service Commission.**
- 5) The Company is applying for Flexible Regulation. Therefore, the Company will include maximum rates as well as current rates for all Local Exchange and Exchange Access services within the Tariff that are not exclusively "ICB."**
- 6) The Company is applying for Modified Alternate Regulation by the PSC for its Interexchange Services. As a general rule, the Company should include maximum rates and current rates for any service that may impact residential customers. Any service that impacts Business Long Distance, Consumer Cards, and Operator Services (Including Directory Assistance) are exempt from maximum rates. Only current rates would need to be filed for these services.**
- 7) The Company should include language as it relates to Marketing Practices (SC PSC Order No. 95-658).**

As a telephone utility under the regulation of the Public Service Commission of South Carolina, the Company hereby asserts and affirms that as a reseller of intrastate telecommunications service, the Company will not indulge or participate in deceptive or misleading telecommunications marketing practices to the detriment of consumers in South Carolina, and the Company will comply with those marketing procedures, in any, set forth by the Public Service Commission. Additionally, the Company will be responsible for the marketing practices of its contracted telemarketers for compliance with this provision. The Company understands that violation of this provision could result in a Rule to Show Cause as to the withdrawal of its certification to complete intrastate telecommunications traffic within the state of South Carolina. (Commission Order 95-658)